S T A T E O F M I C H I G A N

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of	)	
DTE ELECTRIC COMPANY	)	
for Accounting Authority to Defer Costs	)	Case No. U-18122
Associated with its new Customer 360	)	
Billing System.	)	

NOTICE OF PROPOSAL FOR DECISION

The attached Proposal for Decision is being issued and served on all parties of record in the above matter on November 1, 2016.

Exceptions, if any, must be filed with the Michigan Public Service Commission, 7109 West Saginaw, Lansing, Michigan 48917, and served on all other parties of record on or before November 9, 2016, or within such further period as may be authorized for filing exceptions. If exceptions are filed, replies thereto may be filed on or before November 16, 2016. **The Commission has selected this case for participation in its Paperless Electronic Filings Program. No paper documents will be required to be filed in this case.**

At the expiration of the period for filing exceptions, an Order of the Commission will be issued in conformity with the attached Proposal for Decision and will become effective unless exceptions are filed seasonably or unless the Proposal for Decision is reviewed by action of the Commission. To be seasonably filed, exceptions must reach the Commission on or before the date they are due.

MICHIGAN ADMINISTRATIVE HEARING SYSTEM
For the Michigan Public Service Commission

Martin D. Snider

Martin D. Snider
Administrative Law Judge

November 1, 2016
Lansing, Michigan

FOR THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of	)	
DTE ELECTRIC COMPANY	)	
for Accounting Authority to Defer Costs	)	Case No. U-18122
Associated with its new Customer 360	)	
Billing System.	)	

PROPOSAL FOR DECISION

I.

PROCEDURAL HISTORY

On June 23, 2016, DTE Electric Company (DTE), a corporation organized and existing under the laws of the State of Michigan, with its principal office at One Energy Plaza, Detroit, Michigan 48226, filed an application (Application) pursuant to the Rules of Practice and Procedures before the Commission, R460.17101 et seq., the Michigan Court Rules MCR 2.100 et seq., and the Michigan Administrative Procedures Act, requesting Michigan Public Service Commission (Commission) approval for accounting authority to defer certain additional costs associated with the implementation of DTE's new Customer Relationship and Billing System (C 360). DTE is a wholly-owned subsidiary of DTE Energy Company, which supplies retail electric service to customers located in Southeast Michigan, and is a public utility subject to the jurisdiction of the Commission.

On September 26, 2014 the Commission issued an order in. U-17666 (Order) authorizing DTE Electric to defer certain project costs associated with its new C 360 system. The Order provided that costs were not to exceed $47 million, as a regulatory asset in account 182.3, for amortization over a 15 year period beginning the month following the in-service date. The Order directed that C 360 deferred project costs included costs for the following:

- preliminary analysis and design;
- data cleansing and conversion;
- training and change management;
- software maintenance fees; and
- post in-service or “go-live” refinements and stabilization.

The Commission’s Order authorized $168 million in capital costs in accounts 391.1 and 303 for amortization over a 15-year period, and provided that if DTE required more than $168 million for capital costs or more than $47 million for other project costs, “the company is not precluded from making another accounting request in the future.”

DTE indicated in the Application that it is in the process of implementing the C 360 system and anticipated the system would go-live in mid-2017. DTE indicated in the Application that C 360 other project costs will exceed the original estimate of $47 million and capital costs may increase by $18 million. In the Application DTE requests a $32 million increase in the allowable amount that can be recorded to the regulatory asset.

DTE indicated in the Application that the $32 million increase in other project costs is primarily due to a post go-live temporary staffing increase (which DTE believes would reduce the risk of a degradation in customer service levels) and an increase in training and IT support costs. DTE believes that increased staffing, training and IT support would minimize the scope and duration of any disruption in DTE customer service. The post go-live staffing increase is expected to occur during the months of April 2017 through December 2017.

DTE requested $18 million increase in capital costs due to additional system updates, unanticipated programming changes in response to initial testing results, and other expenditures. When appropriate, these capital cost expenditures will be capitalized to accounts 391.1 and 303.

DTE is requesting Commission approval to defer the future recovery of additional capital and other project expenses in a manner consistent with the Commission's order in U-17666. Specifically, DTE is requesting the deferral of the post go-live stabilization costs to account 182.3, other Regulatory Assets, and requests authorization to amortize expenses over a 15 year period commencing upon the completion of the post go-live transition but no later than January 1, 2018. In addition, DTE requests authorization to charge capital costs to accounts 391.1 and 303 which will be amortized over a 15-year period beginning in the month of the system's in-service date.

According to the Application, DTE's recovery of the deferred Customer 360 costs will be requested in a future Commission general rate case. Therefore, DTE's application in this matter requests only Commission's accounting authority to record and defer additional C 360 costs. DTE Electric further requests that this accounting authority be granted as soon as possible to assure proper and timely accounting during the 2017 calendar year.

DTE indicated in the Application that accounting authority requested "*will not result in an increase in the cost of service to customers," and* approval of this Application would not preclude the parties in future DTE general rate cases from challenging the recovery through future rates of amortized or unamortized C 360 costs. Finally, DTE requested approval of the Application without notice or hearing in a manner consistent with MCL 460.6a (1).

On August 31, 2016 a pre hearing on this matter was convened. The parties mutually agreed upon a schedule which included, among other things, a September 27, 2016 date for cross examination.

On August 25, 2016, DTE filed the Direct Testimony of Theresa M Uzenski M.B.A., C.M.A., Manager Regulatory Accounting, who sponsored no exhibits. Also on August 25, 2016, DTE filed the Direct Testimony of Kenneth R. Bridge, B.S. Director Project Manager Office, Co- Delivery Lead for C 360. Mr. Bridge sponsored DTE Exhibits A-1, A-2 and A-3.

On September 21, 2016 DTE filed the Rebuttal Testimony of Theresa M Uzenski. On September 14, MPSC Staff filed the Direct Testimony of Brian Welke, B.S. Mr. Welke sponsored Exhibits S-1.

On September 27, 2016, a hearing on this matter was held. During the hearing, the following testimony was bound into the record and the following exhibits were admitted into the record:

For DTE: Direct Testimony of Kenneth R. Bridge who sponsored Exhibits A- 1, A-2., and A-3.

Direct and Rebuttal Testimony of Theresa M. Uzenski

For MPSC: Direct Testimony of Brian Welke who sponsored Staff Exhibit S-1.

During the September 27, 2016 hearing the presiding ALJ took judicial notice, without objection, of the Uniform System of Accounts and Generally Accepted Accounting Principles. Also, during the hearing, Staff offered Exhibit S-2 which was admitted to the record over DTE's objection.

On September 30, 2016, the parties filed a Stipulated Request for Corrections to Transcript which requested the following corrections to the September 28, 2016, Volume 2 transcript:

- Page 17, line 15, the words "all the" should be corrected to "other".
- Page 66, Line 19, the word "is" should be corrected to "isn't".
- Page 69, line 22, the words "for the" should be corrected to "before".

Rather than issue an order pursuant to rule 792.10415 to correct the September 28, 2016 transcript, the Stipulation of Corrections is incorporated into this hearing record and is attached to this PFD.

On October 5, 2016, DTE and Staff filed Initial Briefs. On October 12, 2016, DTE and Staff filed Reply Briefs. The record consists of 115 transcript pages and 5 exhibits.

II.

BACKGROUND

DTE is a public utility regulated by the Commission and is engaged in the generation, purchase, distribution and sale of electric energy to approximately 2.1 million retail customers in Southeast Michigan. DTE's principal offices are located at One Energy Plaza, Detroit, Michigan 48226.

On September 26, 2014, the Commission issued an order in. U-17666 authorizing DTE to defer certain costs associated with C 360, not to exceed $47 million as a regulatory asset, for amortization over a 15-year period. The project costs to be deferred included preliminary analysis and design; data cleansing and conversion; training and change management; software maintenance fees; and post in-service or "go-live" refinements and stabilization. The Commission's order in U-17666 also authorized up to $168 million in capital costs for amortization over a 15-year period.

On June 23, 2016, DTE filed an application to defer an additional $32 million of other project costs primarily for a post go-live temporary increase in staffing along with increased training and IT support. In addition, DTE indicated that capital costs may also increase up to an incremental $18 million related to additional work on system updates and unanticipated programming changes

On July 22, 2016, the Commission issued an order in U-18122 in which it indicated that ex parte approval of DTE's application was not appropriate and scheduled an August 31, 2016 prehearing date.

III.

POSITION OF THE PARTIES

A. DTE

1. Direct Testimony of Theresa M Uzenski M.B.A., C.M.A., Manager Regulatory Accounting,

Ms. Uzenski testified regarding DTE's proposed accounting treatment of DTE's request to increase the amount of costs recorded for DTE's C 360 project. 2 TR 25. C 360 is DTE's implementation of SAP's Customer Relationship and Billing System (CR&B).

Ms. Uzenski testified that, consistent with the Commission's September 26, 2014 order in U-17666, DTE will record C 360 capital costs to accounts 391.3 and 303 within Property, Plant and Equipment. (Capital costs are being recorded to account 107, Construction Work in Progress, until the system is in-service.) Certain other costs are being recorded as a regulatory asset in account 182.3, Other Regulatory Assets. *Id.*

Ms. Uzenski testified that costs deferred to account 182.3 include costs related to the following: preliminary analysis and design; data cleansing and conversion; training and change management; software maintenance fees; and post go-live refinements and stabilization. *Id.*

Ms. Uzenski testified that DTE will use accounting approved by the Commission in U-17666. That order limits amounts to $168 million of capital costs and $47 million of other costs and provided that DTE, if needed, could subsequently submit another accounting request. Ms. Uzenski testified that ,subsequent to the Commission's order in U-17666, DTE determined that it would incur an additional $18 in capital costs and an additional $32 other costs due to increased post go – live temporary staffing costs DTE. 2 TR 26

Ms. Uzenski testified that, consistent with the Commission's order in U-17666, DTE is requesting accounting authority to include the additional capital costs in accounts 303 and 391.3, and to defer for future recovery, the additional other costs in account 182.3, Other Regulatory Assets. Ms. Uzenski testified that the deferred costs will be amortized over a 15-year period beginning after the post go-live surge is complete, but commencing no later than January 1, 2018. Ms. Uzenski testified that DTE will request recovery of the additional C 360 costs in future general rate applications. *Id.*

2. <u>Rebuttal Testimony of Theresa M Uzenski M.B.A., C.M.A., Manager Regulatory Accounting</u>,

Ms. Uzenski in her rebuttal testimony provided testimony regarding the following:

• Staff's argument that the C 360 costs can be addressed in a rate case must be rejected because it is inconsistent with the treatment prescribed by the Commission's Order in Case No. U-17666. A portion of the costs fall outside of the projected test period in the currently open rate case, No.U-18014, and the amount of the projected costs has changed since DTE filed its application in that case on February 1, 2016.

• Staff's argument that DTE did not include any rationale as to why it needs accounting authority is inaccurate. The instant case is an update to the amount requested in Case No. U-17666 wherein the need for the treatment was explained by DTE and approved by the Commission.

• Staff's arguments that the costs in question are routine and will not cause DTE financial harm should be rejected because the costs are for a unique project, and the additional one-time expenses of $32 million would materially reduce 2017 net operating income.

• Staff's argument that DTE management can independently decide to record a regulatory asset is misleading because management does not have the requisite evidence to support regulatory asset treatment in this particular instance.

2 TR 28

Ms. Uzenski testified that DTE disagrees with Staff Witness Mr. Welke's testimony (page 3) and his conclusion that DTE should use a general rate case 12-month projected test year process to recover DTE's C 360 costs. Mr. Welke testified that DTE's last two rate cases cover the costs from July 1, 2015 through July 31, 2017, therefore a segregation of the C 360 expenses is not necessary. He also testified that the general rate case approach is supported by the Commission and cites an excerpt from U-10061. Ms. Uzenski testified that excerpt is actually a quote from U-15751. Ms. Uzenski testified that the quote in U-15751 cited by Mr. Welke, implies that DTE could have included the additional $32 million in its current rate case, but she testified those incremental expenses were not identified at the time DTE filed its application for base rates in Case No. U-18014 on February 1, 2016. 2 TR 28

Ms. Uzenski testified that DTE's application in this matter for additional C 360 costs was filed on June 23, 2016, and the record in case U-18014 closed on August 16, 2016. Case U-15751 was filed on January 9, 2009, before DTE filed a general rate case on January 26, 2009, Case No. U-15768. Ms. Uzenski testified that the timing of the filings allowed DTE to combine the relief requested in U-15751 with U-15768. Ms. Uzenski testified that no such opportunity existed in the present matter for additional C 360 costs. Ms. Uzenski testified further that a portion of the $32 million requested would be incurred past the projected test period in the rate case. A portion of the $32 million is expected to be incurred in August of 2017 and beyond. 2 TR 30

Ms. Uzenski testified that it is not likely that DTE could file its next rate case by February 1, 2017 because an order in the current DTE rate case, U-18014, will not be issued until sometime in January 2017. Ms. Uzenski testified that even if DTE could file its next rate case by February 1, 2017, Staff would recommend a disallowance for any incremental C 360 costs in that case because Staff typically proposes the normalization or disallowance of one-time costs. In DTE's current rate case, Staff proposed a normalization or disallowance for costs at DTE's Fermi nuclear plant that do not recur every year (U-18014, 5 TR 1549). Ms. Uzenski testified that notwithstanding Mr. Willke's belief that DTE could seek and realize recovery of the expected incremental C 360 costs in a future rate case, including those costs in a subsequent case would be difficult, if not impossible, given the timing in which the costs are expected to be incurred. In addition consistent with Staff's prior recommendations, Ms. Uzenski believes that Staff would oppose recovery given the one- time nature of the incremental C 360 costs. 2 TR 31

DTE's need for regulatory asset treatment was approved by the Commission in U-17666. In that case, DTE described one-time expenses that supported a 15-year asset and proposed that the expense and related recovery be recognized over the 15-year period. Ms. Uzenski testified that in its current application, DTE is not asking for new special accounting authority; it is asking for an increase in the amount that can be included in the accounting already approved by the Commission. The Commission's September 26, 2014 Order in U-17666 specifically limits the amount that could be deferred as a regulatory asset to $47 million, and provided DTE could make another accounting request if additional amounts were required. *Id*

Ms. Uzenski testified that DTE does not agree with Mr. Welke's conclusion on page 4 of his direct testimony, that DTE did not provide evidence that DTE will experience financial harm and Mr. Welke's conclusion that the costs "appear routine, with the only possible distinction of being new" (lines 6 2 and 7). 2 TR 31-32 Ms. Uzenski testified that DTE witness Mr. Bridge in his direct testimony, described these incremental one-time costs in as a temporary surge in staffing, training and related expenses to ensure strong customer support in the stabilization period after the new system goes live. Ms. Uzenski testified that given Mr. Bridges testimony, such an undertaking is clearly not routine and a $32 million period cost is significant. Ms. Uzenski testified that if DTE's request for deferral is denied, the costs will be expensed as incurred, materially reducing 2017 operating income. 2 TR 32

Ms. Uzenski testified, as indicated in Staff Exhibit S-1.0, page 9, If DTE does not record the additional C 360 costs to a regulatory asset, and the costs will be expensed as incurred. If the costs were subsequently included in future rates, the expense would be reversed upon a Commission order and recorded to the balance sheet to be amortized over the approved recovery period. Ms. Uzenski testified the result is the recognition of $32 million of expense in 2017, a reversal of that $32 million expense upon an order in the next rate case (date TBD), and the recognition of the expense over the approved recovery period (e.g., the following xx number of years). Ms. Uzenski testified that if this occurs it would distort income in 2017 and in the year the expense is reversed. Ms. Uzenski testified that the uncertainty of recovery of the C 360 costs could result in spending on other necessary projects being delayed past 2017. 2 TR 32-33

3. Generally Accepted Accounting Practices Require a Commission Order to Record Incremental Customer 360 Costs as a Regulatory Asset

Ms. Uzenski testified that as shown on Staff Exhibit S-1.0, pages 6 and 7, DTE applied the guidance of Accounting Standards Codification 980 which allows for the recognition of a regulatory asset if future recovery is probable. Ms. Uzenski testified the original C 360 regulatory asset was recognized based on the accounting order in

U-17666, and the inclusion of the regulatory asset in the current rate U-18014. Ms. Uzenski testified that DTE management determined that these cases provided sufficient evidence that recovery is probable. However, because the additional costs were specifically excluded from the accounting order in U-17666 due to the cap on the allowable amount and were not reflected in the rate case, management does not have sufficient evidence to conclude that recovery of the additional costs is probable. 2 TR 33

DTE argues in its Brief that the C 360 regulatory asset was recognized pursuant to the Commission's order in U-17666, and is included as regulatory asset in the current rate case U-18014. DTE argues that based on these cases it concluded that recovery of C 360 costs are probable. Brief p 6. However, due to the cap on C 360 costs contained in the Commission's order in U-17666, DTE's additional C 360 costs requested in the Application were specifically excluded from the accounting order and were not reflected in the rate case. DTE argues, because of this, it does not have sufficient evidence under the GAAP standards to conclude that recovery of the additional C 360 costs are probable. Brief p 6 & 2 TR 33. DTE argues that it is not asking the Commission for new accounting authority. It is merely requesting an increase in the cost caps contained in the Commission's order in U-17666. 2TR 31

4. <u>The Normalization Process was not feasible</u>

Staff Witness Mr. Welke testified that DTE should have included the additional $32 million Customer 360 costs in U-18014. (DTE's current rate case). 2 TR 15. DTE argues in its Brief that it was not possible to include Customer 360 costs in U-18014 because:

- Incremental Customer 360 expenses in the instant case were not identified at the time DTE filed its application (February 1, 2016) for base rates in U-18014. 2TR 29-30;
- Additional C 360 costs requested in the instant case were not finalized until April 2016 and were not approved by the DTE Energy Board of Directors until June 2016. 2TR 97;
- The instant case's application for the additional costs filed on June 23, 2016; and
- The record in the rate case (U-18014) closed on August 16, 2016, prior to the prehearing in the instant case. 2TR 30

Brief, p7.

DTE also argues that the circumstances in this case may be distinguished from those in the Commission's order in U-15751 cited by Staff witness Welke. In U-15751 (cited as U-10061 by Mr. Welke) DTE filed an application for accounting authority on January 9, 2009, which was before DTE filed a general rate case on January 26, 2009 (Case No. U-15768) 2 TR 30. Id. Because the application for accounting authority was filed before the rate case DTE argues it was possible to combine the relief requested in U-15751 with Case No. U-15768. When DTE filed its application in the instant matter it determined that a portion of the $32 million would be incurred in August of 2017, which is beyond the projected test year in its current rate case U-18014. 2TR 30. DTE argues that Staff witness Mr. Welke's proposal to normalize additional C 360 costs in DTE's current rate case was not possible because the additional C 360 expenses were not identified until shortly before the evidentiary record in U-18014 closed, and because a portion of

DTE's additional expenses would be incurred outside of the U-18014 projected test year. Brief pp-7-8

DTE argues in its Brief that the Commission has, on numerous occasions, granted *ex parte* approval of requests for accounting authority outside of a general rate case. In support DTE references the following cases:

- U-15763 (Order dated March 18, 2009 approving accounting practices to recognize fuel inventory adjustments);
- U-17666 (Order dated September 26, 2014, approving accounting authority for treatment of Customer 360 project costs);
- U-17991 (Order dated December 22, 2015 granting accounting authority to defer certain costs and revenues associated with the implementation of DTE's Government Requested Cap and Cut Services); and
- U-18033 (Order dated May 20, 2016 approving accounting authority to record and defer certain costs associated with the retirement of generation units and plants).

Brief, p 8

Thus, DTE argues that the accounting authority requested in this matter is common not extraordinary as suggested by Staff's witness Welke,

5. <u>Without an Accounting Order DTE's 2017 Operating Income will be Materially Impacted</u>

DTE disagrees with Staff witness Welke's conclusion that DTE has not provided evidence that it will experience financial harm absent a Commission order in this matter. 2 TR 16. C 360 costs are not recurring costs. Brief p 8. DTE witness Mr. Bridge testified that the additional funding is needed to supplement DTE's current customer service work force at go-live and through a post go live three to eight month stabilization period.

2 TR 94-6. DTE's additional C 360 expenses involve a temporary, one-time, non-routine increase in costs due to a 50% increase in staff and training. 2 TR 32. DTE argues that if the Commission denies DTE's request for a deferral of additional C 360 costs, those costs will be expensed as incurred which will materially reduce DTE's 2017 operating income. 2 TR 32.

6. Direct Testimony of Kenneth R. Bridge, B.S. Director Project Manager Office, Co- Delivery Lead for C 360.

Mr. Bridge testified regarding the deferral of an additional $32 million in costs associated with the C 360 project. Mr. Bridge sponsored three exhibits. A-1 Customer 360 Revised Total Project Forecast; A-2 Customer 360 Project Cost Changes; and A-3 Customer 360 Project Incremental Cost Detail. 2 TR 92

Exhibit A-1 is a high level depiction of the additional C 360 requirements. The top part of the exhibit describes the increased costs from the original $215 million to the current estimate of $265 million. The lower part of the exhibit shows the current approved deferred O&M of $47 million and the breakdown of the increased costs to arrive at the requested deferred O&M of $79 million. 2 TR 95

Exhibit A-2 breaks down the original estimated project costs of $215 million (lines 1 through 20), the current estimated costs of $265 million (lines 21 through 40) and the variance between the two of $50 million (lines 41 through 60). The additional $50 million in costs is broken down between capital and O&M and into various categories of cost. 2 TR 95-96

Exhibit A-3 is a breakdown of the incremental $50 million as mentioned above. The exhibit has four parts. The first part (page 1) breaks down the details of the $27 million of increase expected O&M costs for post go-live support. The second section (page 2, lines

1 through 21) breaks down the increased IT costs of $14 million, the third section (page 2, lines 25 through 31) breaks down the increased costs of training of $6 million and the last section (page 2, lines 35 through 42) breaks down the incremental testing costs of $3 million. 2 TR 96

Mr. Bridge testified that C 360 is the implementation of SAP's Customer Relationship and Billing System (CR&B) at DTE for both gas and electric companies. It includes new hardware and software designed to replace DTE's' existing Customer Service Systems. It includes the following: 1) Customer Service, 2) Meter Reading, 3) Billing and Invoicing, 4) Finance, 5) Credit and Collections, 6) Marketing and Account Management, 7) Device Management, and 8) Customer Choice. 2 TR 92

Mr. Bridge testified that DTE is working on implementing the software and hardware, and expects the C 360 Project to go live in April 2017. C 360 implementation costs were originally estimated at $215 million, including capital costs of $168 million and other project costs of $47million. On July 31, 2014, DTE filed an application requesting accounting authority to defer certain project costs associated with C 360 and record them as a regulatory asset for amortization over a 15-year period beginning the month following the in-service date. 2 TR 93

On September 26, 2014, the Commission issued an order in U-17666 authorizing DTE to defer certain C 360 costs, not to exceed $47 million as a regulatory asset, for amortization over a 15-year period. The costs to be deferred include the following:

- preliminary analysis and design;
- data cleansing and conversion;
- training and change management;

- software maintenance fees; and
- post in-service or “go-live” refinements and stabilization.

Mr. Bridge testified that the Commission’s Order also authorized up to $168 million in capital costs for amortization over a 15-year period. The original expected cost was $215 million. The additional $50 million will bring the expected costs to $265 million. 2TR 93

Mr. Bridge testified that on June 23, 2016, DTE filed the application in the present matter to defer an additional $32 million of other project costs, primarily for a post go-live temporary increase in staffing, along with increased training and IT support. DTE indicated in its application that capital costs may also increase up to an incremental $18 million related to additional work on system updates and unanticipated programming changes. 2 TR 94

Mr. Bridge testified that DTE believes that an additional $50 million is needed to fully implement C 360**.** The additional funding is needed to supplement DTE’s current Customer Service work force at go-live and through the stabilization period. At go-live, DTE projects that average handling time for customer calls to increase by approximately 50%. Mr. Bridges testified that increased handling time will occur due to a lack of employees and contractor experience and proficiency with the new system. Mr. Bridge testified that due to DTE’s commitment to strong customer service DTE needs to increase its capacity to handle customer calls. Mr. Bridge testified that an expected increase in handling time, requires a 50% increase DTE’s front and back office staffing levels. Mr. Bridge testified that this temporary increase in staffing is needed in order to reduce or minimize the risk of significant degradation in customer service levels once conversion occurs. Mr. Bridge testified that increased temporary customer service staffing will result in additional training and IT support needs. This increase will diminish over time as our customer service representatives become better acclimated to the system.

Mr. Bridge testified that in addition to the $32 million in O&M, the C 360 project requires $18 million in additional capital to fund cost increases in contract and employee labor for additional work on system updates and unanticipated programming changes. 2 TR 94-95

Mr. Bridge testified that the C 360 Post go-live stabilization is the 3 to 8 month period after the system goes live where more staff is needed until employees learn to work the new system more efficiently. Following the development of the initial C 360 budget in 2014, DTE has been working closely with Accenture, the project integrator. Throughout the C 360 project Accenture has advised DTE regarding what other utilities' post go-live experience was like and how DTE could leverage that information. Mr. Bridge testified that DTE benchmarked with three utilities to better understand what they experienced in terms of increased call handing time. Mr. Bridge testified that the information obtained from three utilities indicated the following:

- the ramp up ranged from 10% to 100% for customer service representatives, and 25% to 110% for 22 billing exception analysts; and

- A significant increase in call handling time and call abandonment even with the incremental staffing.

Mr. Bridge testified that as a result of DTE's research, DTE concluded that its estimate of post go-live surge staffing requirements was too low. 2 TR 95-96

Mr. Bridge testified that DTE expects to spend more on training than originally planned. DTE's training program includes 50 instructors, 80 training courses and 500 simulations. Over 1,800 employees and contractors will be trained. DTE also needs additional testers to perform a bill compare function to assure customer bill accuracy. 2 TR 97

Mr. Bridge testified that in the first quarter of 2016, DTE attempted to model the total post go-live surge staff costs based on the new information gathered after the initial C 360 budget. DTE continued to work with Accenture and other potential suppliers to refine those costs through April 2016. In April 2016, requests for proposal began to arrive back from potential suppliers. Subsequently, DTE finalized its expected post go-live incremental costs as well as expected increased costs around interfaces, training and testing and presented the request to the DTE Finance Committee in May of 2016. In June of 2016 the additional $50 million was formally approved by the DTE Energy Board of Directors.

Mr. Bridge testified that the C 360 project is eight months away from the go-live date, the project is over 80% complete and the design, build and the majority of the functionality testing is completed. 2 TR 97

Finally, Mr. Bridge testified that DTE is not requesting recovery of the additional C 360 costs in the present matter. DTE will seek recovery in future general rate applications. 2 TR 98

<u>B. Staff</u>

Staff argues in its Brief that the Commission has granted ex parte relief in several prior cases which involved applicants seeking approval of deferred costs for accounting treatment while reserving questions of ratemaking treatment for a subsequent rate case. Brief p 2. Staff argues that had any petitioners been granted intervention in those cases they would have argued that Commission-sanctioned use of account 182.3 would decrease the likelihood that the Commission would consider objections to the underlying costs in a subsequent rate case. Brief p 3. Staff believes if the petitioners had the chance to intervene they have would argued that the Commission's approval of the applicants' deferred accounting requests would result in inadequate attention to the reasonableness and prudence of the same costs in future rate cases*. Id.*

In U-17427, the Attorney General argued that approval of deferred accounting amounted to an assurance of future recovery. See MPSC Order, U-17427, July 11, 2013, p 3. The Commission rejected this argument by stating "The Attorney General is incorrect when he argues that a grant of deferred accounting authority requires an assurance of future recovery." *Id*. at 5.

Staff argues that the Commission refrained from granting ex parte approval in the next two cases where DTE only requested "accounting authority" to defer costs. Brief, p 3. In U-18033 DTE requested authority to use account 182.3 for costs related to the retirement of generation units and plants. In the alternative, DTE requested authorization to charge the expenses to accumulated depreciation. The Commission denied the request to use account 182.3 and ordered DTE to charge the costs to accumulated depreciation. The Commission concluded that it preferred charging expenses to accumulated depreciation because doing so would provide Staff and other parties an opportunity to review the obsolete inventory for prudence prior to inclusion in depreciation rates. MPSC Order U-18033, May 20, 2016, p 2.

In the present matter DTE requested additional authority to use account 182.3 for additional C 360 implementation costs. The Commission found that ex parte approval to defer the C 360 implantation incremental costs was not appropriate and ordered DTE to more fully explain and support its request within the context of a contested case. MPSC Order, U-18122, July 22, 2016, p 2

Staff argues in its Initial Brief that in U-17427 & U-17463 the Commission capped the costs that DTE could defer… {c} capital costs "shall be limited to $168 million" and approval for other project costs "shall be limited to $47 million." Brief, p 4, also see MPSC Order, U-17666, September 26, 2014, p 3. The Commission's order also provided that if DTE required additional funds it could make another accounting request in the future. *Id*. DTE now requests an additional deferral of $18 million in capital costs and $32 million in other project costs. 2 TR 26. Staff indicated in its brief that it is primarily concerned with the $32 million in other projects costs that DTE wishes to book to account 182.3. Brief, pp. 4-5.

According to the USOA, account 182.3 includes that aggregated amounts of regulatory assets resulting from regulatory ratemaking actions (See Appendix A for the USOA's complete description of account 182.3.) Staff argues that applicable accounting standards require utilities requesting regulatory asset treatment to demonstrate that it is probable that the costs at issue will be recoverable in future rates. *Id*. Staff argues that the Commission may only approve DTE's application if the present matter is ratemaking action and if it is probable that the additional C 360 costs will be recovered in the future. Brief, pp5. Staff argues that the Commission's ratemaking authority covers a broad range of possible actions and DTE's current filing, is not a request for ratemaking action.

In support of Staff's position it points out that DTE witness Uzenski testified that "This application has nothing to do with ratemaking…" (2 TR 47.) "This case does not say anything about ratemaking; it's just accounting." (2 TR 62.) Staff believes that based on Ms. Uzenski's testimony, Commission action on DTE's application is not ratemaking action of a regulatory agency. Therefore, Staff argues that DTE has failed to meet the threshold requirement for booking expenses to account 182.3. Brief, p.6

Staff also argues in its Brief that DTE may only book C 360 additional costs as a regulatory asset, in a manner consistent with GAAP 980, when future recovery is probable. Brief, p7. GAAP 980 provides that something is probable when **"**The future event or events are likely to occur". [ASC 450-20-20.] Staff argues that DTE failed to provide evidence showing that future recovery of additional C 360 costs will be *probable* or *likely to occur*. Without that evidence Staff believes that DTE cannot defer C 360 cost in a manner consistent with GAAP 980. *Id.*

1. <u>DTE's Lack of Evidence that Recovery of C 360 costs are Probable</u>

Staff argues in its Brief that DTE neither provided evidence in case U-17666, nor in the present case that recovery of C 360 cost was probable. Brief, p 7. Staff rejected DTE's witness Ms. Uzenski's testimony that it was DTE's belief that:

> …the accounting order in Case No. U-17666, coupled with the
> Inclusion of the regulatory asset in the current rate case,
> No. U-18014…provide[s] sufficient evidence that recovery is probable.
> [2 TR 33.]

Staff also rejects DTE's claim that its request in the present matter only pertains to accounting authority and will not affect rates. 2 TR 50. The Commission's order in U-17666 provides that "approval is granted for accounting purposes only. Recovery of reasonable and prudent costs, as well as appropriate carrying costs, will be considered in future rate proceedings." Brief, p. 9 & MPSC Order, No. U-17666, September 26, 2014, p 3. Staff argues that despite this language DTE filed its application in the present matter to recover additional C 360 costs because it believes that doing so will make recovery of costs more probable. Id. Ms. Uzenski testified that in her opinion recovery of the $32 million requested in this case is not probable, but recovery of the $47 million in U-17666 is probable. 2 TR 61. Staff argues that DTE in the present case is requesting to book an additional $32 million to account 182.3 while simultaneously conceding that it is unable to prove that recovery is probable in a future rate case. Brief, p.11.

Staff also argues that DTE's application should be rejected because it is not necessary. Staff believes the DTE should use the existing rate making regulatory framework to seek Commission approval for a regulatory asset. 2 TR 15. Specifically, Staff argues the booking of a regulatory asset should be requested and considered general rate case and in deferred accounting application. Brief, pp.11-12.

Staff argues in its Brief that Commission approval of a regulatory asset in the present matter, also outside of a rate case, would be an "extraordinary measure". Brief, p 13. In U-15751 the Commission described regulatory assets as "extraordinary" forms of relief. See MPSC Order, U-15751, February 3, 2009, p 4. In U-15751, Detroit Edison filed an application seeking authority to implement cost-based rates for educational institutions through associated recovery surcharges or regulatory assets booked to account 182.3. (U-15751 Application, January 5, 2009, p. 7.) The Commission in its order found that DTE should defer the issues raised in. U-15751 to U-157684 DTE's pending rate case. See MPSC Order, U-15751, February 3, 2009, p 3. The Commission described the alternative forms of relief proposed by DTE — interim surcharges or the creation of a regulatory asset — as "extraordinary measures." *Id*.

Staff argues that DTE's filings record shows that, following the Commission's order in U-15751, DTE subsequently re-filed its testimony from that case (accounting authority) in U-15768 (rate case) and updated cost-based school tariffs. Staff supported the tariffs, the ALJ recommended Commission approval, and no exceptions were filed. In its order in U-15751 the Commission adopted the recommendation but because the tariffs were not opposed, the Commission did not opine on the issue of creating a regulatory asset. Brief, p 13 & See MPSC Order U- 15751 January 11, 2010, p 81.

Staff believes that in this matter the Commission should consider how DTE in U-15768 described alternative relief (deferred costs booked to account 182.3) in the event the Commission rejected the tariffs and surcharge:

> If the Commission rejects a surcharge approach, the Commission should authorize the establishment of a regulatory asset and authorize the deferred recovery of the revenue decrease resulting from the approval of the educational tariffs without the requested surcharge.
>
> . . .
>
> Therefore, the Company requests the **assured recovery** of the deferral through the use of Account 182.3. [MPSC Case No. U-15768, 5 TR 345.] [Emphasis added.]

Staff argues DTE has indicated in its filings that it is aware in the present matter that Commission approval would not assure future recovery of C 360 costs. Therefore DTE is requesting only accounting authority to record and defer C 360 costs. MPSC U-18122 Application, June 23, 2016, p.9.

2. Rate Case v Accounting Authority

Staff witness Welke testified that DTE pursuant to PA 258, has filed a rate case in which DTE projected its costs and revenues for the test year July 1, 2015 through

July 31, 2017 in U-17767 and U-18014. That 25-month period envelops a period of substantial C 360 investment. 2 TR 15.

Staff argues that despite multiple rate case filings DTE has segregated C 360 project costs outside its rate cases. Staff argues that the current regulatory framework provides DTE with the opportunity to recover C 360 cost. Staff believes that Commission approval of C 360 cost outside a rate case are extraordinary measures because a denial of would not preclude recovery of C 360 costs. 2 TR 15. Staff argues that C 360 costs within a rate case could be normalized and recovered. 2 TR 17. Brief, p 15.

Staff argues that DTE acknowledged that a denial of its application in the present matter would not prohibit it from recovering C 360 costs. DTE responded to a Staff's audit request regarding the utilization of normalizing adjustments in DTE's next rate case in lieu of creating a regulatory asset. DTE responded with the following:

> If the Company does not record the costs as a regulatory asset, the costs will be expensed as incurred. If the costs were subsequently included in future rates, the expense would be reversed upon a Commission order and recorded to the balance sheet to be amortized over the approved recovery period. [Exhibit S-1, p 9.] *Id.*

Staff believes a rate case is a better setting to consider and review DTE's request for additional C 360 costs because Staff would have the opportunity to complete a prudence review. Staff did not complete a prudence review in the present matter because the Commission previously indicated that it would consider the reasonableness and prudence of C 360's costs in future rate proceedings. Brief, p 16 & See MPSC Order, U-17666, September 26, 2014, p 3.

Staff believes that if the Commission grants DTE approval in the present matter the approval is "analogous to implicit approval in a subsequent rate case", and "the

Commission is essentially deeming the costs reasonable and prudent". Staff argues DTE has the burden of proof to show reasonableness and prudence of C 360 costs and approval of DTE's application in the present matter would "relieve the Company of its future obligation to justify these costs." Brief, p. 16.

Staff's final argument is that Commission approval in this matter would increase the likelihood of DTE future recovery of C 360 costs which are were based on DTE's inaccurate cost projections. Brief, p 17. DTE's actual C 360 costs are now projected by DTE to be much higher than its original estimate. 2 TR 110. In. U-17666 DTE requested and obtained authorization to book $47 million in other project costs to account 182.3. 2 TR 26. $14 million of the $47million was earmarked for "post go-live refinements and stabilization." See MPSC Order, U-17666, September 26, 2014 p.2. DTE exceeded those projections and now requests an additional $32 million in other project C 360 costs. 2 TR 26. Staff argues that DTE's request in the present case represents a 128% increase in Commission approved accounting authority for post go-live costs. *Id.*

Staff also argues that it has concerns regarding DTE's allocation of C 360 go live costs. DTE's witness Mr. Bridge testified that DTE spent $14 million dedicated to post go-live stabilization on other items. 2 TR 110. Staff argues the necessary tools as its disposal in a rate case to investigate the allocation of C 360 costs but those tools are no available in the present matter. Brief, p 18.

Finally, Staff argues that if the Commission approves DTE's deferral of additional C 360 cost then the Commission should indicate in its order that approval does not reduce DTE's evidentiary duty nor prevent the Commission from denying subsequent rate recovery of C 360 cost booked in reliance on the order. Brief, pp. 18-19.

3. <u>Direct Testimony of Brian Welke, B.B.A.</u>

Mr. Welke testified regarding Staff's position relating to DTE's application requesting authority to defer costs of DTE's C 360 project and to book those deferrals as a regulatory asset. 2 TR 14

Mr. Welke testified that in 2014, DTE requested accounting authority from the Commission to defer projected C 360 expenses and to book them as a regulatory asset. The Commission's order in that case limited the amounts to $168 million of capital costs and $47 million of other costs, but provided that the DTE could make another accounting request if needed. 2 TR 14

Mr. Welke testified that DTE projects that it will incur up to $18 million in additional capital costs and $32 million in additional other costs. DTE witness Bridge testimony indicated that the additional costs include a need to fund increased post go-live temporary staffing (surge*). Id.*

Mr. Welke testified that Staff does not support DTE's application for deferral and regulatory asset treatment for the projected C 360 additional costs. 2 TR 15. Staff believes that PA 286 establishes a regulatory framework through which companies can use projected costs and revenues for a future consecutive 12-month period in developing its requested rates and charges. DTE has worked within that framework by projecting its costs and revenues from July 1, 2015 through July 6 31, 2017 in U-17767 and U-18014. That 25-month period includes a period of substantial C 360 investment. Despite this, DTE has decided to segregate C 360 costs from those proceedings to request them separately. Staff believes that DTE should use the existing regulatory framework for projecting expenses and relies upon the Commission order in U-10061.

> The alternative forms of relief proposed by Detroit Edison – interim surcharges or a regulatory asset – are extraordinary measures. Typically, a utility that is faced with a revenue deficiency simply files a new general rate case, which Detroit Edison has also chosen to do. Faced with the task of guesstimating either the amount of the possible surcharges or the amount of the regulatory asset, neither of which can be forecast with any precision due to their dependence on actual consumption data that is influenced by unpredictable factors such as weather, as opposed to resolving the question in Detroit Edison's pending rate case, the Commission opts for the rate case approach.
>
> January 28, 1993, Order in U-10061. 2 TR 15

DTE's application does not include any rationale as to why it needs special accounting authority outside of the current regulatory framework. Id. DTE has not presented any evidence that without this special accounting approval, it will experience financial harm, that the expenses were unusual or non-routine in nature, or that these costs would be irrevocably sunk. Without such rationale, C 360 costs appear routine with the only possible distinction of being new. Routine costs should be recovered through the current regulatory framework provided by PA 286, which provides for projected costs to be included in a projected test year. Mr. Welke testified that approval of this application may cause DTE and other utilities to "save-up" routine costs for future recovery through future regulatory asset requests. Staff has not performed a prudence review to determine if the costs are reasonable or unreasonable. 2 TR 16

Mr. Welke testified that Staff's recommendation is not made with the intention of precluding DTE from booking a regulatory asset. Rather, it is Staff's preference that DTE rely on its management when determining whether a regulatory asset exists. The current regulatory framework provides an opportunity for DTE to recover these costs in a future rate case without special accounting treatment. That framework allows for normalization adjustments. Those adjustments are common and have been viewed as acceptable by

Staff and approved by the Commission in nearly all rate case proceedings in the past. 2 TR 17

IV.
DISCUSSION

On July 31, 2014, DTE filed an application requesting accounting authority to defer certain project costs associated with C 360 and record them as a regulatory asset, for amortization over a 15-year period beginning the month following the in-service date. On September 26, 2014 the Commission issued an order in U-17666(Order) authorizing DTE to defer certain projects costs associated with its new C 360 system. The Order provided that costs were, not to exceed $47 million, as a regulatory asset in account 182.3, for amortization over a 15 year period beginning the month following the in-service date. The Order directed that C 360 deferred project costs included costs for the following:

- preliminary analysis and design;
- data cleansing and conversion;
- training and change management;
- software maintenance fees; and
- post in-service or “go-live” refinements and stabilization.

The Order authorized $168 million in capital costs in accounts 391.1 and 303 for amortization over a 15-year period, and provided that if DTE required more than $168 million for capital costs or more than $47 million for other project costs “the company is not precluded from making another accounting request in the future.”

Mr. Bridge testified for DTE that the original projected C 360 cost was $215 million. Subsequent to the Commission’s order in U-17666 DTE determined that the project

C 360 implementation required an additional $32 million in O&M, and an additional $18 million in capital to fund cost increases in contract and employee labor for additional work on system updates and unanticipated programming changes. 2 TR 94-95. The additional $50 million brought DTE's expected C 360 costs to $265 million. 2TR 93. Because the Commission's order in U-17666 capped deferred account costs to $168 million for capital costs and $47 million for other project costs DTE filled it application in the present matter.

In its application DTE requests Commission approval to defer the future recovery, of additional capital and other project expenses, in a manner consistent with the Commission's order in. U-17666. DTE is requesting the deferral of the post go-live stabilization costs to account 182.3, Other Regulatory Assets, and requests authorization to amortize expenses over a 15 year period commencing upon the completion of the post go-live transition but no later than January 1, 2018. In addition DTE requests authorization to charge capital costs to accounts 391.1 and 303 which will be amortized over a 15-year period beginning in the month of the system's in-service date.

A. Uniform System of Accounts & Generally Accepted Accounting Principles

The Federal Uniform System of Accounts (USofA) and the Financial Accounting Standards Board's Generally Accepted Accounting Principles (GAAP) were used by DTE when making its decision to treat C 360 costs a regulatory asset. DTE argues that its decision to record a regulatory asset according to USofA and GAAP accounting standards, is a DTE management decision which may be requested outside a general rate case. Staff, however takes a different position. Staff argues, that before granting DTE authority to use account 182.3 the Commission must determine first, that the DTE's accounting authority application is ratemaking action and second, determine that recovery of the additional C 360 coats is probable.

USofA's description of account 182.3, Other Regulatory Assets provides in pertinent part:

> A. This account shall include the amounts of regulatory-created assets, not includible in other accounts, resulting from the ratemaking actions of regulatory agencies. (See Definition No. 30.)
>
> B. The amounts included in this account are to be established by those charges which would have been included in net income, or accumulated other comprehensive income, determinations in the current period under the general requirements of the Uniform System of Accounts but for it being probable that such items will be included in a different period(s) for purposes of developing rates that the utility is authorized to charge for its utility services. When specific identification of the particular source of a regulatory asset cannot be made, such as in plant phase-ins, rate moderation plans, or rate levelization plans, account 407.4, regulatory credits, shall be credited. The amounts recorded in this account are generally to be charged, concurrently with the recovery of the amounts in rates, to the same account that would have been charged if included in income when incurred, except all regulatory assets established through the use of account 407.4 shall be charged to account 407.3, regulatory debits, and concurrent with the recovery in rates.
>
> C. If rate recovery of all or part of an amount included in this account is disallowed, the disallowed amount shall be charged to Account 426.5, Other Deductions, or Account 435, Extraordinary Deductions, in the year of the disallowance.
>
> D. The records supporting the entries to this account shall be kept so that the utility can furnish full information as to the nature and amount of each regulatory asset included in this account, including justification for inclusion of such amounts in this account.

DTE and Staff agree that the reference in paragraph A to Definition 30 is incorrect and should refer to Definition 31. Definition 31 provides:

> *Regulatory Assets and Liabilities* are assets and liabilities that result from rate actions of regulatory agencies. Regulatory assets and liabilities arise from specific revenues, expenses, gains, or losses that would have been

> included in net income determination in one period under the general requirements of the Uniform System of Accounts but for it being probable: A. that such items will be included in a different period(s) for purposes of developing the rates the utility is authorized to charge for its utility services; or B. in the case of regulatory liabilities, that refunds to customers, not provided for in other accounts, will be required.

DTE argues in its Brief that the Commission has, on numerous occasions, granted *ex parte* approval of requests for accounting authority outside of a general rate case. In support DTE references the following cases:

- U-15763 (Order dated March 18, 2009 approving accounting practices to recognize fuel inventory adjustments);
- U-17666 (Order dated September 26, 2014, approving accounting authority for treatment of Customer 360 project costs);
- U-17991 (Order dated December 22, 2015 granting accounting authority to defer certain costs and revenues associated with the implementation of DTE Electric's Government Requested Cap and Cut Services); and
- U-18033 (Order dated May 20, 2016 approving accounting authority to record and defer certain costs associated with the retirement of generation units and plants).

Brief, p 8

The Commission in U-17666 granted DTE accounting authority outside of a contested rate case to allow DTE to defer costs to account 182.3. DTE argues that the standard of review in that case and others was whether the nature of the costs are such that they may be given the accounting treatment requested. Staff argues in its Brief that the Commission must use what DTE believes are managerial accounting decisions, as a legal threshold for the Commission's grant of accounting authority.

B. Rate Making Action And Probable Recovery Overview

Staff argues the Commission may only approve DTE's application for additional C 360 costs after the Commission determines whether it is probable that the additional C 360 coast will be recovered in future rates. According to USofA, account 182.3." shall include the amounts of regulatory-created assets, not includible in other accounts, resulting from the ratemaking actions of regulatory agencies". See Staff Brief Appendix A. In addition, Staff argues that utilities requesting regulatory asset treatment are required to demonstrate that it is probable that the costs at issue will be recoverable in future rates. *Id*. Staff argues that the Commission must review and decide DTE's application for accounting authority to use account 182.3 by applying the following two factor analysis.

1. Is the proceeding a ratemaking action?
2. Is it probable that the costs in issue will be recovered in the future?

Staff argues that DTE has neither demonstrated that its application in the present matter is ratemaking action nor shown that it is probable that DTE will recover its additional C 360 cost in a future rate making proceeding. Staff concludes that because DTE has not met both requirements of Staff's two factor threshold for regulatory asset approval, the Commission must deny DTE's request and DTE may not book the additional C 360 costs to account 182.3.

1. <u>Ratemaking Action</u>

Neither Staff nor DTE put forth a definitive argument whether DTE's application in the present matter is for rating making action. Staff concluded that DTE's witness Uzenski, testimony that "This application has nothing to do with ratemaking…" (2 TR 47), and "this case does not say anything about ratemaking; it's just accounting." (2 TR 62), means that DTE has failed to meet the threshold requirement for booking expenses to account 182.3. Despite this conclusion, Staff agrees that ratemaking action is "broad and open to differing interpretations" and Staff "does not intend to hang its hat on this issue". Brief, p.6. Because neither Staff nor DTE believe that DTE's application in this matter, is or is not, definitively ratemaking, there is no need to address ratemaking action factor in Staff's proposed two prong test.

2. <u>Commission's Order in U-15751 and Normalization of C 360 Cost</u>

Staff believes that DTE's application for accounting authority to use account 182.3 may only be brought in a general rate case. Staff argues in its brief that DTE's application in this matter is not necessary because an existing rate making regulatory framework is available within which DTE could seek Commission approval for a regulatory asset. (2 TR 15.) Brief p-11-12. Staff argues that DTE's request to book a regulatory asset should have been requested and considered in a general rate case, and not in an application for deferred accounting. Staff argues that the Commission's order in U-15751 characterized the alternative relief proposed by DTE — interim surcharges or the creation of a regulatory asset — as "extraordinary measures." *Id*. MPSC Order, U-15751, February 3, 2009, p 4.

In U-15751 DTE filed an application seeking authority to implement cost-based rates for educational institutions through associated recovery surcharges or regulatory assets booked to account 182.3. See U-15751 Application, January 5, 2009, p.7. A careful review of the Commission's order in U-15751 reveals that DTE was not just requesting ex parte relief regarding a regulatory asset. Because DTE's request could potentially impact customer rates, it was in essence a request for ratemaking. DTE's request was also made to address a revenue deficiency which would occur if any DTE education customers switched from their tariffs, at that time, to new tariffs. The Commission wrote in its order:

> The alternative forms of relief proposed by Detroit Edison - interim surcharges or a regulatory asset - are extraordinary measures. Typically a utility that is faced with a revenue deficiency simply files a new general rate case, which Detroit Edison has also chosen to do. Faced with the task of estimating either the amount of the possible surcharges or the amount of the regulatory asset, neither of which can be forecast with any precision due to their dependence on actual consumption data that is influenced by unpredictable factors such as weather, as opposed to resolving the question in Detroit Edison's pending rate case, the Commission opts for the rate case approach. Additionally, deferring Detroit Edison's cost recovery concerns to its pending rate case also means that it is appropriate to consider ABATE's and Energy Michigan's issues in the rate case.

MPSC Order, Case U-15751, February 32009, p 4.

Staff argues in its Brief that the Commission found that "DTE should defer the issues raised in Case No. U-15751 to U-15768 DTE's pending rate case". Id. Staff concluded that because the Commission in U-15751 consolidated DTE's request for accounting authority with DTE's rate case the Commission should order the same in the present matter.

There are two problems with Staff's conclusion. First, Staff's interpretation of U-15751 ignores the context within which the Commission was making its order. In its application in U-15751 DTE was not simply requesting ex parte consideration to establish a regulatory asset. DTE was seeking Commission action to address a revenue deficiency outside a pending DTE general rate case. Therefore, the Commission had the option of considering DTE request outside a general rate case or consolidating DTE's application and requested relief with the general rate case. Second, while the Commission does find in its order that "relief proposed by Detroit Edison - interim surcharges or a regulatory asset - are extraordinary measures". It does not indicate that it lacked the authority to consider the relief request by DTE outside a general rate case. In fact the Commission clearly indicated in it order that:

> Faced with the task of estimating either the amount of the possible surcharges or the amount of the regulatory asset, neither of which can be forecast with any precision due to their dependence on actual consumption data that is influenced by unpredictable factors such as weather, as opposed to resolving the question in Detroit Edison's pending rate case, the
>
> Commission **<u>opts</u>** for the rate case approach. (Emphasis added)
>
> MPSC Order, Case U-15751, February 3, 2009, p 4.

There are other differences between the context of the Commission's order in U-15751 and the present matter. The timing of the application in U-15751 made it possible for the Commission to consolidate the application with DTE's general rate case. 2 TR 30. DTE's U-15751 application for accounting authority was filed on January 9, 2009, before DTE's January 26, 2009, U15768 general rate case filing. 2 TR 30.

In the present matter, in June 2016, DTE's Board of Directors approved the additional C 360 costs. DTE argues that the timing of this approval, weeks before the evidentiary record closed in rate case (Case No. U-18014), precluded DTE from including a request for additional C 360 costs in DTE's general rate case. Therefore, DTE correctly argues it was not possible, as suggested by Staff, to include the additional C 360 costs in U-18014, DTE's general rate case.

Staff witness Mr. Welke testified that DTE should have included the additional $32 million C 360 costs in its current rate case. 2 TR 15. DTE's C 360 expenses were not identified at the time DTE filed its February 1, 2016 rate case application in Case No. U-18014. 2TR 29-30. DTE's rate case filings show a portion of the $32 million in C 360 coast is expected to be incurred in August of 2017 and beyond. 2 TR 30. Therefore, the normalization process Mr. Welke suggests DTE should have used in its current rate case was not possible. DTE's additional C 360 expenses were not identified until shortly before the record in U-18014 closed and a portion of the expense is outside of the projected test period.

3. Commission's Order in U-117666

The Commission's order in U-17666 authorized DTE to defer certain C 360 projects costs not to exceed $47 million as a regulatory asset in account 182.3 for amortization over a 15 year period beginning the month following the in-service date. The Commission's Order authorized $168 million in capital costs in accounts 391.1 and 303 for amortization over a 15-year period and provided that if DTE required more than $168 million for capital costs or more than $47 million for other project costs, "the company is not precluded from making another accounting request in the future."

Staff has not alleged that DTE, pursuant to the Commission's order in U-17666, improperly booked C 360 other project costs to account 182.3. Staff, however questions the evidence DTE used to book $47 million C 360 project costs. Staff Brief p.8. DTE correctly points out that Staff has had ample opportunity to contest DTE's accounting of the initial $47 million in C 360 costs (Case No. U-17666, Case No. U-17767, and Case No. U-18014), but did not do so. DTE's request in the present matter seeks Commission approval to treat an additional $32 million in C 360 costs in the same manner the Commission treated the initial $47 million in U-17666. I find there is no language in the Commission's order in U-17666 which required DTE to file any subsequent request for accounting authority for additional C 360 costs, in a DTE rate case.

4. <u>Commission R 460.9002 Does Not Require Applications for Accounting Authority to be filed in a General rate Case</u>

Commission Rule 460.9002(1) (e) provides that electric utilities under the jurisdiction of the Commission must apply to the Commission for Michigan retail jurisdictional use of certain Uniform System of Accounts including Account 182.3, Other Regulatory Assets. Rule 460.9002(1) e) provides in pertinent part:

> 460.9002 Adoption by reference of federal standards.
>
> Rule 1. (1) The federal uniform system of accounts for major and non-major electric utilities promulgated by the United States federal energy regulatory commission and codified at 18 CFR Part 101, as amended through April 1, 2010, is adopted by reference in these rules as of January 1, 2011. The rules are prescribed for the use of all electric utilities under the jurisdiction of the Michigan public service commission, subject to the following exceptions and conditions unless otherwise ordered by the Michigan public service commission:
> (e) The electric utilities under the jurisdiction of the Michigan public service commission shall apply to the Michigan public service commission for Michigan retail jurisdictional use of the following accounts:
> (i) Account 182.1 - Extraordinary property losses.
> (ii) Account 182.2 - Unrecovered plant and regulatory study costs.
> (**iii) Account 182.3 - Other regulatory assets.**
> (iv) Account 254 - Other regulatory liabilities.
> (v) Account 407 - Amortization of property losses, unrecovered plant and regulatory study costs.
> (vi) Account 407.3 - Regulatory debits.
> (vii) Account 407.4 - Regulatory credits.
>
> (Emphasis added)

Rule 460.9002 does not include any provision which requires an application to the Commission for authorization to use account 182.3. Other regulatory assets, must be made during a contested case for a rate increase. Staff's argument that DTE's application in the present matter may only be made in general rate case is not consistent with the language of rule 460.9002. DTE argues that if the Commission, in the present matter, issues an order which requires DTE to file its application in a rate case, the Commission's order would in effect add a clause to Rule 460.9002(e) which restricts DTE, and other electric utilities, requests for the use of account 182.3 to general rate proceedings. I agree. Such an order by the Commission would be inconsistent with the Michigan Administrative Procedures Act, Act 306 of 1996, and MCL 24.201 *et seq*. Rule promulgation requirements.

Therefore, I find there is no language in R 460.9002 which prohibits DTE from filing an application with the Commission for authority to use account 182.3 outside a general rate case.

Staff witness Welke noted in his testimony that pursuant to PA 258, DTE has filed a rate case in which DTE projected its costs and revenues for the test year July 1, 2015 through July 31, 2017 in U-17767 and U-18014. The 25-month period includes a period of DTE C 360 investment. 2 TR 15. Staff argues that despite DTE's multiple rate case filings C 360 project costs continue to be segregated outside DTE's rate cases. Staff believes:

- The current regulatory framework provides DTE with the opportunity to recover C 360 costs;

- Commission approval of C 360 cost outside a rate case are extraordinary measures because a denial would not preclude recovery of C 360 costs; (2 TR 15.);
- C 360 costs within a rate case could be normalized and recovered. (2 TR 17.); and
- A rate case is a better setting to consider and review DTE's request for additional C 360 costs because Staff would have the opportunity to complete a prudence review.

Staff witness Welke testified that Staff did not complete a prudence review in the present matter because the Commission in its order in U-17666 indicated that it would consider the reasonableness and prudence of C 360's costs in future rate proceedings. 2 TR 16 MPSC Order, U-17666, September 26, 2014, p 3

Staff presented valid concerns regarding the Commission's consideration of DTE's application outside a rate case. However, there is no statue, rule, or commission order which specifically requires or limits DTE to seek accounting authority to use account 182.3 in a rate case. In addition, there is no language in the Commission's order in U-17666 which indicates that DTE was precluded from making a subsequent accounting request outside a rate case. The Commission's order in U-17666 provides in pertinent part:

> … [t]he Commission finds that approval for capital costs shall be limited to $168 million and approval for other project costs shall be limited to $47 million. Should DTE Electric require more than $168million for capital costs and more than $47 million for other project costs, the company is not precluded from making another accounting request in the future.
>
> The approval is granted for accounting purposes only. Recovery of reasonable and prudent costs, as well as appropriate carrying costs, will be

considered in future rate proceedings.

MPSC Order, U-17666, September 26 2014, p 3

The Commission's order clearly contemplated recovery of DTE's reasonable and prudent C 360 costs in a future rate case and contemplated the possibility of DTE filing a subsequent accounting request outside a rate case, for cost above the order's caps. Therefore, I find that there is no statue, rule, or commission order which specifically required and limited DTE to seek accounting authority to use account 182.3 in a rate case.

C. Probable Recovery of C 360 Costs

Staff believes that DTE has not established that it is probable that DTE will recover the additional C 360 costs in future ratemaking action. Neither the GAAP standards nor the USofA discuss what forms of evidence DTE may use to support recording costs as a regulatory asset. DTE's witness Ms. Uzenski testified, the determination as to whether rate recovery of an incurred cost is probable is a matter of accounting judgment. 2 TR 33. FASB ASC 105-10-05-2 provides that if guidance for a transaction or event is not specified within a source of authoritative GAAP for the entity, the entity may consider non authoritative guidance from other sources. DTE argues that it considered guidance from the Price Waterhouse Cooper guide to accounting for utilities and power companies (PwC Guide), The PwC Guide outlines the evidence DTE must consider to record a regulatory asset. See Exhibit S-1.0, p.6 citing PwC Guide, Section 17.3.1.2.

The PwC Guide provides that the best evidence for a regulatory asset is a rate order, "the timing of the regulatory process sometimes does not enable the regulated utility to obtain one prior to issuing financial statements. As a result, management and independent accountants may look for an ***accounting order*** or related precedent within the regulated utility's jurisdiction, which may indicate that the recovery of such costs in rates is probable." Exhibit S-1.0, p.6 citing the PwC Guide, Section 17.3.1.2 (Emphasis added). The PwC Guide provides the following list which describes the types of evidence that may be used to support the use of account 182.3 and may be used to support hat future recovery is probable. DTE's brief, pp 5-6, n 4.

- The regulated utility receives a rate order specifying that the costs will be recovered in the future.

- The incurred cost has been treated by the regulated utility's regulator as an allowable cost of service item in prior regulatory filings.

- The incurred cost has been treated as an allowable cost by the same regulator in connection with another entity's filing.

- It is the regulator's general policy to allow recovery of the incurred cost.

- The regulated utility has had discussions with the regulator (as well as its primary intervener groups) with respect to recovery of the specific incurred cost and has received assurances that the incurred cost will be treated as an allowable cost (and not challenged) for regulatory purposes.

- The specific incurred cost (or similar incurred cost) has been treated as an allowable cost by a majority of other regulators and has not been specifically disallowed by the regulated utility's regulator.

- The regulated utility has obtained an opinion from outside legal counsel outlining the basis for the incurred cost being probable of being allowed in future rates.

DTE's Brief, pp 5-6, fan 4; Exhibit S-1, p 6.

In addition, DTE also relied upon ASC 980-340-25-1(b) which states that one criterion for recognition of a regulatory asset is that rates will be provided to permit recovery of the previously incurred cost rather than expected levels of similar future costs.

As stated in this standard, this criterion is evaluated “[b]ased on the available evidence” and it is management’s review that is required to evaluate the evidence and make a determination as to the appropriate accounting treatment.

Staff argues in its Brief that DTE may only book C 360 additional costs as a regulatory asset, in a manner consistent with GAAP 980, when future recovery is probable. GAAP 980 provides that something is probable when**”** The future event or events are likely to occur”. See ASC 450-20-20. Staff argues that DTE failed to provide evidence showing that future recovery of additional C 360 costs will be probable or likely to occur. Without that evidence Staff believes that DTE cannot defer C 360 cost in a manner consistent with GAAP 980.

DTE argues in its Brief that the C 360 regulatory asset was recognized pursuant to the Commission’s order in U-17666, and is included as regulatory asset in DTE’s current rate case U-18014. DTE argues that based on these cases it concluded that recovery of C 360 costs are probable. Brief p 6. However, due to cap on C 360 costs contained in the Commission’s order in U-17666 the additional C 360 costs requested by DTE were specifically excluded from the accounting order and were not reflected in the rate case, DTE argues because of this it does not have sufficient evidence under the GAAP standards to conclude that recovery of the additional C 360 costs are probable. Brief p 6 & 2 TR 33. DTE argues that it is not asking the Commission for approval for new accounting authority but is merely requesting an increase in the cost caps contained in the Commission’s order in U-17666. 2 TR 31

Staff’s conclusion that DTE must provide evidence that cost recovery of the additional C 360 cost is probable given the language in the U-17666 puts DTE in a difficult position. DTE must show additional C 360 costs are probable but cannot do so without an order from the Commission. A Commission accounting order is the type of evidence that Staff argues DTE must provide to show that recovery of C 360 coats are probable. DTE, through its application for accounting authority in the present matter, is seeking the evidence it needs to make a managerial decision that recovery of the additional C 360 coats is probable. Staff's two factor threshold analysis transforms a management accounting decision, subject to Commission approval, into a legal standard of review. The "probable" standard in accounting terms should not be used by the Commission's for its standard of review for DTE's application in the present matter.

D. <u>Staff's Account 186 Alternative for C 360 Costs</u>

Staff also proposes an alternative account 186 argument. Staff argues that DTE could have booked its additional C 360 costs to account 186. Ms. Uzenski confirmed in her testimony that DTE could book the $32 million to account 186. 2 TR 55-56. And that "the only difference" between account 186 and 182.3 is that account 182.3 "requires specific Commission approval." 2 TR 56. Staff believes that DTE's booking of C 360 costs to account 186, which does not require Commission action, would not contain any assurance that future recovery of C 360 costs is probable.

Staff's alternative argument ignores the fact that the Commission in its order in U-17666 approved DTE's request to use account 182.3 for C 360 costs and did not suggest DTE use account 186.

E. Commission Approval of DTE's Application Does Not Assure Future Recovery of C 360 Costs

Staff believes that DTE filed its application to use account 182.3 in the present matter because Commission approval would include implicit Commission assurance that future recovery of C 360 costs is "probable" or "likely to occur. "Brief & see ASC 450-20-20.

In its Brief Staff wrote "implicitly embedded in such an approval (as requested by the Company) is the Commission's assurance that future cost recovery is "probable" or "likely to occur." (ASC 450-20-20.). It would be improper to provide this level of assurance without the benefit of Staff first conducting a prudence review". Reply Brief p.2

The Commission's Order in U-17666 provides no language which suggests any assurance to DTE that any C 360 costs will be recovered in a future rate case. The Commission order provides in pertinent part:

> The approval is granted for accounting purposes only. Recovery of reasonable and prudent costs, as well as appropriate carrying costs, will be considered in future rate proceedings because an *ex parte* case is not the correct venue to address possible future recovery of capital costs and other project costs. The Commission notes that by granting approval of the accounting authority, it is not reducing the evidentiary burden the company must meet before it may recover these costs in a future rate proceeding.

Commission's Order U-17666, September 26, 2014, p 3

While it may be true that the Commission's approval of DTE's application to use account 183.3 for additional C 360 costs would make future recovery probable for accounting purposes, the Commission's approval in this matter, just like its approval in U-17666, includes no assurance that DTE's C 360 cost will be recovered in a future rate case. All C 360 costs included in a DTE's rate case would be subject to a Staff prudency review.

F. <u>Commission Denial an Accounting Order would impact DTE's 2017 Operating Income</u>

Staff witness Welke concluded in his testimony that there is no evidence that DTE would experience financial harm if the Commission denies DTE's request. 2 TR 16. Mr. Welke testified C 360 costs were usual and routine costs which DTE should include in a rate case protected test year. DTE argues that C 360 costs are not are not routine recurring costs. DTE witness Mr. Bridge testified that the additional C 360 funding is needed to supplement DTE's current customer service work force at go-live and through a post go live three to eight month stabilization period. 2 TR 94-6. DTE argues that its additional C 360 expenses are for a temporary, one- time, non- routine increase in costs due to a 50% increase in staff and training. 2 TR 32. If the Commission denies DTE's request for a deferral of additional C 360 costs, DTE will expense those costs as incurred which will reduce DTE's 2017 operating income.

During cross examination of DTE witness Ms. Uzenski testified that DTE recently filed Form 8-K with the Securities and Exchange Commission in which DTE increased its earning per share. 2 TR 85. See Exhibit S-2. Ms. Uzenski also testified that the Commission's approval of U-17666 did not factor in DTE's *- K guidance. 2 TR 78-79. Staff argues that neither the approval in U17666 nor in the present matter would affect DTE investor expectations.

Neither the USofA nor GAAP accounting standards for account 182.3 include a financial harm factor. Therefore, DTE will not receive a financial benefit by simply expensing C 360 costs to account 182.3. DTE Brief, p7. DTE correctly points out that if the Commission denies DTE's request in the present matter DTE's 2017 operating

Income would be impacted if DTE expenses the additional C 360 costs as they are incurred.

G. <u>Staff's Two Factor Analysis may exceed the Commission's Authority.</u>

DTE argues in its Reply Brief that if the Commission were to adopt Staff's interpretation and recommended application of accounting standards the Commission would exceeds its authority. DTE argues that the Michigan Supreme Court has held that the Commission's "power to fix and regulate rates… does not carry with it, either explicitly or by necessary implication, the power to make management decisions." *Union Carbide Corp. v. Public Service Com*., 431 Mich. 135, 148-149 (1988). *See also, Midland Cogeneration Venture Ltd. Partnership v. Public Serv. Comm'n*, 199 Mich. App. 286 (1993). Staff's two factor threshold analysis which arguably transforms a management accounting decision, subject to Commission approval, into a legal standard of review could be interpreted to exceed the Commission's authority

V.

<u>CONCLUSION</u>

I recommend the Commission adopt my finding that DTE was not precluded by statue, rule, or Commission order from filing its application for accounting authority to use account 182.3 outside a DTE rate case.

I recommend the Commission adopt my finding that the "probable" standard in accounting terms should not be used by the Commission's as its sole standard of review for DTE's application in the present matter.

I recommend the Commission adopt my finding that the Commission's approval in this matter, just like its approval in U-17666, includes no assurance that DTE's C 360 costs will be recovered in a future rate case.

Finally, I recommend the Commission approve:

- DTE's application to defer an additional $32 million in other C 360 project costs to account 182.3 Other Regulatory Assets ,to be amortized to expense over a 15-year period beginning after the C 360 implementation is complete but no later than January 1,2018: and
- DTE's request to amortize an additional $18 million in capital costs over a 15- year period beginning the month of the C 360 in-service date.

MICHIGAN ADMINISTRATIVE HEARING SYSTEM
For the Michigan Public Service Commission

Martin D. Snider

Martin D. Snider
Administrative Law Judge

November 1, 2016
Lansing, Michigan

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the Matter of the Application of **DTE ELECTRIC COMPANY** For Accounting Authority to Defer Costs Associated with its new Customer 360 Billing System.	)))))	Case No. U-18122

STIPLUATED REQUEST FOR CORRECTIONS TO TRANSCRIPT

DTE ELECTRIC COMPANY and the MICHIGAN PUBLIC SERVICE COMMISSION STAFF submit this Stipulated Request for Corrections to Transcript pursuant to the Rules of Practice and Procedure before the Commission R 792.10415 and in support states as follows:

1. After review of the transcript in this proceeding, it has become apparent that some errors were made in the transcription of these proceedings which are set forth in detail below.

2. The Commission is empowered to make changes to the transcript of proceedings when errors are brought to their attention. R 792.10415(4).

3. The following transcript excerpts require the changes indicated below:

- September 28, 2016, Volume 2, Page 37, line 15, the words "all the" should be corrected to "other."
- September 28, 2016, Volume 2, Page 66, line 19, the word "is" should be corrected to "isn't."
- September 28, 2016, Volume 2, Page 69, line 22, the words "for the" should be corrected to "before."

4. The parties request that the Administrative Law Judge issue an order approving and making the changes to the transcript indicated above in Paragraph 3.

WHEREFORE, DTE Electric Company and the Michigan Public Service Commission Staff respectfully request that the Administrative Law Judge issue an Order in this proceeding making the changes in the transcript of this proceeding indicated above in Paragraph 3.

Respectfully submitted,

DTE ELECTRIC COMPANY

By: Andrea Hayden Digitally signed by Andrea Hayden DN: cn=Andrea Hayden, o=General Counsel - Regulatory, ou=General Counsel - Regulatory, email=andrea.hayden@dteenergy.com, c=US Date: 2016.09.30 15:20:02 -04'00'

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Dated: September 30, 2016

MICHIGAN PUBLIC SERVICE COMMISSION STAFF

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Dated: September 30, 2016